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EDWARD BENNETT WILLIAMS (1920-1988)

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October 9, 2020

Via ECF

Hon. Richard M. Berman
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States v. Türkiye Halk Bankası A.Ş.*, S6 15 Cr. 867 (RMB)

Dear Judge Berman:

We submit this letter motion to inform the Court that we have filed our notice of appeal regarding the Court's denial of our motion to dismiss the indictment for lack of subject matter jurisdiction based on foreign sovereign immunity, and to respectfully request that the Court vacate all pretrial, trial, and related deadlines. *See* ECF No. 679. The collateral order doctrine "allows an immediate appeal from an order denying immunity under the [Foreign Sovereign Immunities Act]." *Kensington Int'l Ltd. v. Itoua*, 505 F.3d 147, 153 (2d Cir. 2007); *Filler v. Hanvit Bank*, 378 F.3d 213, 216 (2d Cir. 2004) (same). "The filing of a 'timely and sufficient notice of appeal' divests the district court of jurisdiction 'as to any matters involved in the appeal' or 'as to the matters covered by the notice.'" *New York v. U.S. Dep't of Homeland Sec.*, --- F.3d ---, 2020 WL 5495530, at *3 (2d Cir. Sept. 11, 2020) (per curiam). "[O]nce a notice of appeal has been filed, a district court may take actions only 'in aid of the appeal or to correct clerical errors.'" *Id.*; *see also Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982) (per curiam) ("The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal."); *United States v. Goolsby*, 820 F. App'x 47, 51 (2d Cir. 2020) (same in the criminal context). In the alternative, we respectfully request that this Court grant a discretionary stay of all deadlines. *See, e.g., United States v. Bical*, 409 F. Supp.

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3d 51, 52 (E.D.N.Y. 2019) (stay standard). Accordingly, we respectfully request that this Court vacate all pretrial, trial, and related deadlines.¹

Respectfully,

/S Robert M. Cary

Robert M. Cary

cc: Counsel of record

<u>Government to respond by noon on</u>	
<u>October 13, 2020.</u>	
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SO ORDERED:	<i>Richard M. Berman</i>
Date: <u>10/10/2020</u>	<u>Richard M. Berman, U.S.D.J.</u>

¹ Neither this motion nor the notice of appeal withdraws Halkbank's petition for mandamus on recusal. Halkbank continues to object to this case proceeding until the recusal issue has been fully and finally decided.